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1 — Thirteen years and counting: anatomy of an EPA civil rights investigation, Center for Public Integrity, 8/7/2015

<http://www.publicintegrity.org/2015/08/07/17706/thirteen-years-and-counting-anatomy-epa-civil-rights-investigation>

Concerns about a proposed hazardous-waste facility in New Mexico prompted a complaint that has been pending in the EPA's Office of Civil Rights for 13 years with no resolution.

2 — Mine plug blows in Colorado, dumping 1M gallons of waste, Albuquerque Journal, 8/6/2015

<http://www.abqjournal.com/624117/news/mine-plug-blows-near-silverton-colo-dumping-1m-galls-of-waste.html>

A million-gallon mine waste spill that sent a plume of orange-ish muck down a river in southwest Colorado on Thursday was caused by a federal mine cleanup crew.

3 — EPA foes turned asthma study into weapon for ozone fight, Greenwire, 8/6/2015

<http://www.eenews.net/stories/1060023092>

When a Johns Hopkins University researcher published a study showing race and income as risk factors for asthma, she started getting phone calls from industry groups opposing U.S. EPA's bid to tighten the national ozone standard.

4 — EPA rule earns ridicule in oil and gas country, but some support percolates, Energywire, 8/6/2015

<http://www.eenews.net/stories/1060023010>

If there's one thing traditional oil and gas states don't like, it's being told how energy policy should work. Consider the ferocity of comments from three of the country's most prominent energy-producing states that followed this week's release of U.S. EPA's Clean Power Plan, which aims to reduce carbon dioxide emissions from power plants.

5 — Inhofe, Lankford Want More Information About EPA 'Waters Of The United States' Rule, KGOU, 8/6/2015

<http://kgou.org/post/inhofe-lankford-want-more-information-about-epa-waters-united-states-rule>

Both of Oklahoma's U.S. Senators sent a letter to Environmental Protection Agency administrator Gina McCarthy Wednesday requesting documents and clarification regarding the Waters of the United States rule.

6 — Economic Alliance participates on Ozone Round Table, Bay Area (TX) Citizen, 8/6/2015

http://www.yourhoustonnews.com/bay_area/news/economic-alliance-participates-on-ozone-round-table/article_8795dbdb-dd98-5136-af39-0e496a45e86f.html

The U.S. House of Representatives Energy and Power Subcommittee on Wednesday held a roundtable in Washington, D.C. entitled, "EPA's Proposed Ozone Rule: Potential Impacts on Manufacturing and Jobs." The Economic Alliance Houston Port Region was invited to participate and City of Deer Park Mayor, Jerry Mouton, Jr. represented the Economic Alliance and the city during the meeting.

7 — Texas Says EPA Administrative Actions under CERCLA Trigger Duty to Defend, Insurance Risk Recovery, 8/6/2015

<http://www.insuranceriskrecovery.com/2015/08/texas-says-epa-administrative-actions-under-cercla-trigger-duty-to-defend/>

As any company facing EPA administrative action under CERCLA knows, the financial risk and defense costs associated with those proceedings can be the same as the risk and costs of an EPA lawsuit under CERCLA. But insurers have argued that administrative actions are very different from suits under standard CGL policies.

8 — Protecting the state: Water rule is federal overreach (opinion), Arkansas Democrat-Gazette, 8/6/2015

<http://www.arkansasonline.com/news/2015/aug/06/protecting-the-state-20150806/>

Having grown up near the banks of the White River in the Ozark foothills, I fully appreciate the clean water that helps make us the Natural State. Like all Arkansans, I want to protect our clean water for future generations, but there is currently a push from aggressive Washington, D.C., bureaucrats to control all water in Arkansas

9 — Climate change a big reason to vote in 2016 (opinion), San Antonio Express-News, 8/6/2015

<http://www.mysanantonio.com/opinion/commentary/article/Climate-change-a-big-reason-to-vote-in-2016-6430177.php>

The vast majority of scientists who have devoted their professional lives to studying the Earth's climate believe human-induced warming is an urgent problem requiring bold action. Republican candidates for president insist they know better.

10 — LANL theft, fraud scandal back in focus, Albuquerque Journal, 8/7/2015

<http://www.abqjournal.com/624528/news/lanl-theft-fraud-scandal-back-in-focus.html>

Chuck Montañó was a long-time thorn in the side of Los Alamos National Laboratory management, from the inside. And he's not stopping now, even though he's been gone from the lab for nearly five years. Montañó and two friends are pushing to reopen an investigation into theft and fraud at the lab that dates from more than a decade ago.

11 — EPA Grant Helps Restore Louisiana Coast, Bayou Buzz, 8/6/2015

<http://www.bayoubuzz.com/healthcare/louisiana-coverage/item/958967-epa-grant-helps-restore-louisiana-coast>

The U.S. Environmental Protection Agency recently awarded \$362,213 to the Coastal Protection and Restoration Authority of Louisiana to help design a project implemented under the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) program.

12 — Even less hurricane activity predicted for remainder of 2015, NOAA says, New Orleans Times-Picayune, 8/6/2015

http://www.nola.com/hurricane/index.ssf/2015/08/even_less_hurricane_activity_p.html#incart_most_shared-environment

NOAA forecasters said Thursday that the chance of a below-normal hurricane season for 2015 has jumped to 90 percent, the result of a well-entrenched El Nino pattern of warm surface water conditions in the eastern Pacific Ocean and high wind shear and sinking air over much of the Atlantic where tropical systems form.

13 — One Rainy Spring Not Enough To Stop Aquifer Declines in Oklahoma, NPR StateImpact, 8/6/2015

<https://stateimpact.npr.org/oklahoma/2015/08/06/one-rainy-spring-not-enough-to-stop-groundwater-declines-in-oklahoma/>

On a recent trip to the Spencer Mesonet Station, water resources geologist Jessica Correll attached a metal probe to a long tape measure and fed it down into the Garber-Wellington Aquifer. The probe descended about 50 feet before striking water.



We are extending our campaign until August 15. Thanks to the generosity of the Center's Board of Directors, gifts made to the Center before August 15 will be matched up to \$10,000! That means your gift does even more to support independent journalism around the world.

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Environmental Justice, Denied

Thirteen years and counting: anatomy of an EPA civil rights investigation

A complaint filed against the New Mexico Environment Department in 2002 remains open, to the exasperation of the complainant

By Talia Buford   email 4 hours, 45 minutes ago Updated: 4 hours, 45 minutes ago



Chaves County, New Mexico, is the proposed site of the Triassic Park hazardous-waste facility. Though the facility exists only on paper, a complaint filed with the Environmental Protection Agency's Office of Civil Rights alleged that the state permitting process discriminated against Spanish-speaking residents. Talia Buford/Center for Public Integrity

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SANTA FE, New Mexico — On June 26, 2014, Deborah Reade got a certified letter from the Environmental Protection Agency that was nearly a decade in the making.

“During the course of the EPA’s investigation,” the letter

Key findings:

Concerns about a proposed hazardous-waste facility in New Mexico prompted a complaint that has been pending in the EPA's Office of Civil Rights for 13 years with no resolution.

read, “it was determined that additional information is needed to clarify this allegation.”

Reade was incredulous.

Her original complaint to the EPA’s Office of Civil Rights, in 2002, seemed like a lifetime ago. Back then, she was research director for a group called Citizens for Alternatives to Radioactive Dumping. She’d alerted the agency to a potential pattern of discrimination against Spanish-speaking residents by the New Mexico Environment Department.

Her complaint focused on Triassic Park, a proposed commercial hazardous-waste disposal site, and a public participation process she said made it hard for poor and Spanish-speaking residents to voice concerns. The project was permitted by the state in 2002. Three years later, the EPA agreed to investigate Reade’s claims.

Then: silence, for nine years. Reade moved on, disillusioned with the process. Now, the EPA was pulling her back in.

“When I got this [2014 letter], I kind of groaned, ‘Really?’” Reade said during an interview in her Santa Fe home. “I was like, ‘Oh no. I don’t even remember how to do any of this,’ you know?”

By all accounts, Reade should have been free of the matter years ago.

EPA regulations dictate the timeline the Office of Civil Rights must follow when investigating complaints of discrimination allegedly committed by recipients of EPA funding. Within five days of delivery, the EPA must acknowledge receipt of the complaint and within 20 days decide if an investigation will occur. The investigation itself should take no more than 180 days, barring special circumstances.

The office’s director, Velveta Golightly-Howell, declined to comment on the Triassic Park investigation. She said, however, that “cases do age. That is just the nature of civil rights programs.”

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The New Mexico complaint, filed in 2002, alleged a lack of consideration for Spanish-speaking residents during the permitting process for a planned hazardous-waste facility in Chaves County.

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As discrimination complaints languish at the EPA, situations on the ground can change: the main target of the New Mexico complaint died, for example, and several of the complainants moved away.

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Five groups, including complainants in the New Mexico case, are suing EPA to force the agency to act on pending civil rights cases, some of which were filed in the early 1990s.

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The New Mexico complaint was accepted for investigation in 2005, but the EPA took nine years to ask the complainants for more information.

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A Center for Public Integrity review of 265 complaints filed from 1996 to 2013 shows that the EPA has failed to adhere to its own timelines: On average, the office took 350 days to decide whether to accept a complaint and allowed cases to stretch 624 days from start to finish. A consultant's report, which examined cases from 1993 to 2010, found that the agency accepted or rejected just 6 percent within the allotted time period. Half took a year or more to be adjudicated.

Reade's case — and the nearly decade-long investigation — is an extreme, but not unique, example of the agency missing its mark.

The EPA's online docket, last updated in March, lists 17 cases accepted for investigation that are still awaiting disposition. The earliest was filed in 1994, the most recent in 2013.

In July, Citizens for Alternatives to Radioactive Dumping and four other groups signed on to a lawsuit asking a court to force the EPA to act on their civil rights cases, some of which have been pending since 1994. The lawsuit, filed by the environmental law firm Earthjustice, calls the delays "unlawful" and "unreasonable," and asks that the EPA be compelled to issue preliminary findings in the cases and impose remedies when warranted.

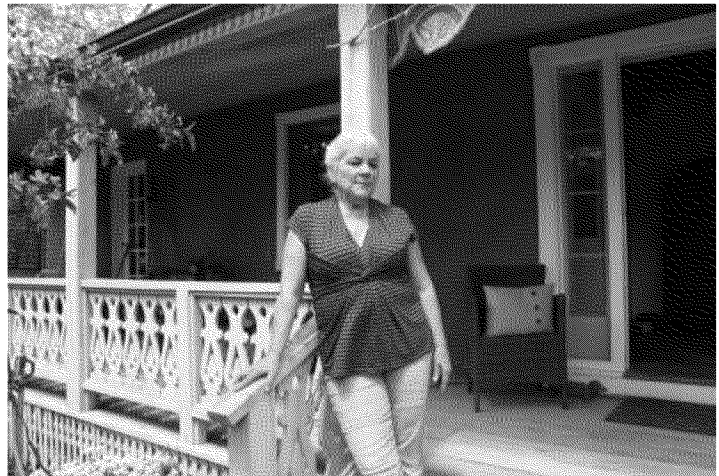
Environmental justice advocates say such delays send a message to state regulators and residents that complaints are not important and make it hard for EPA to reconstruct events many years after the fact. People are left to set their own standards about what discrimination looks like.

"They don't care that this inequality is rampant and that's the message," Reade said. "You're powerless."

A 'good, safe spot'

Triassic Park exists only on paper.

The hazardous waste facility, first permitted by the state in 2002 and now up for renewal, was



Deborah Reade and other members of Citizens for Alternatives to Radioactive Dumping filed a civil-rights complaint with the EPA in 2002, alleging discrimination against Spanish-speaking residents in Chaves County. The EPA accepted the case in 2005 but waited another nine years to ask for more information from the complainants. The case is pending. Talia Buford/Center for Public Integrity

"They don't care that this inequality is rampant and that's the message. You're powerless."

-Deborah Reade, New Mexico activist

never built. If it had been, it would be located on 480 barren acres nearly indistinguishable from any stretch along U.S. Highway 380 in southeastern New Mexico.

Pass a few cows grazing along the roadside and you'll eventually find mile marker 196, 36 miles from Tatum and 43 miles from Roswell. The ground in this area is pockmarked with grass, tall weeds and errant debris — a beer can here, a broken comb there — likely thrown from the window of a passing car. Walking stick cactuses dot the landscape and tumbleweeds skip across the road. A small mesa rises in the distance, but for the most part, this part of Chaves County is flat and desolate, with only the occasional rumble of a semi-truck to break the silence.

"We were trying to find the sorriest piece of ground we could," said Larry Gandy, whose father, Dale, conceived of the project along with a family of local ranchers, the Marleys. "It turned out they had a spot that grazes few cows, and it is a spot that actually sits below the water table. So we found a good safe spot with nothing we could contaminate, and that's how we come to that site."

The plan was to turn the site into a landfill that could accept up to 10,000 cubic yards of industrial waste each month. The company, Gandy Marley Inc., would be required to monitor the site for contamination for 30 years in exchange for taking in dangerous substances such as lead, mercury, benzene and PCBs, as well as soil from remediation sites and other debris. The original plan also included two evaporation ponds and four tanks that, combined, could hold upwards of 5 million gallons of waste.

In Chaves County — ground zero for UFO devotees and home to 2009 Kentucky Derby champion Mine that Bird — there are about 11 people for every square mile. Southeastern New Mexico is known as "Little Texas" to some — thanks to similar terrain and economies — and the "nuclear corridor" to others, a nod to a uranium enrichment plant and the U.S. Department of Energy's Waste Isolation Pilot Plant, which stores radioactive waste.

Most county residents identified as Hispanic according to recent Census Bureau estimates. More than a third speak a language other than English at home and 21 percent of people live below the poverty level.

"From an environmental point of view, you have to understand the racism of putting [these facilities] in an area where people can't defend themselves," said Noel Marquez, an activist and artist in Artesia.

The early 1990s brought changes in EPA rules that left many clients of the

Most communities' appeals for help are rejected by the EPA's civil-rights office

Choose a state:

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Among all complaints filed since 1996:

162 rejected 38 no review 64 accepted

Decades of Inaction

Explore the full interactive for more details on each case. Data is also available for download. Source: Data from the U.S. Environmental Protection Agency, analysis by the Center for Public Integrity.

Credit: Yue Qiu, the Center for Public Integrity.

Gandys' oil field services company scrambling to figure out how to properly dispose of their hazardous waste. They applied for an NMED permit for Triassic Park in 1993, but the public review process didn't begin until 2001.

Over those eight years, opposition began to percolate.

Victor Blair and Deborah Petrone had read *Roswell Daily Record* articles about Triassic Park. Petrone owned a postage-stamp-size plot of land about seven miles away, and the two began researching the facility, traveling to the Roswell Public Library to examine the permit. It was hundreds of pages long; Blair was astonished at the scale of the project.

"They were permitted to take scores of tons of each of these different chemicals," Blair said. "And so it was just like, 'Oh, man.' That's when we made the decision to fight."

They connected with other activists who earlier had raised objections. Blair called Jaime Chavez, then an environmental justice organizer with the Water Information Network in Albuquerque.

Chavez explained their plight.

"He said, 'If you two are the only ones involved in the resistance, that's laughable,' " Blair recalled. "'You're gonna have to be undercover and raise a stink. That's all you can do right now. And when the stink raises a profile, it'll attract other people who don't like the smell. Then, maybe you can get enough people around you to make some noise.' "

Blair became the de facto man-on-the-ground, taking advice from Chavez during regular phone calls.

"You had to mobilize the community," said Chavez, now an organizer with the Rural Coalition, a farmworker advocacy group. "The plan was to go door to door, getting these commitments, talking with your neighbor, spreading the word and delivering folks to these hearings, which we did."

NMED sensed heightened public interest in the project and insisted that Gandy Marley hold public meetings, said Steve Pullen, who helped draft the permit for Triassic Park and is now compliance manager for NMED's Hazardous Waste Bureau. Meetings were set for Roswell, Santa Fe, Tatum and Hagerman.

On July 19, 2001, Deacon Jesus Herrera of the Immaculate Conception Roman Catholic Church in Dexter walked into the Hagerman Elementary School auditorium with 15 or 20 other people from his parish. They'd come to him

with concerns about Triassic Park. This, Herrera said, was supposed to be their meeting — a chance to ask questions and get responses in Spanish.

Things didn't go as planned.

As the meeting progressed in English, Herrera rose and asked if the presentation also would be made in Spanish.

It wouldn't, he was told. An interpreter was on hand but would only translate attendees' questions into English. Some activists remember officials telling Herrera to "sit down and shut up." The activists said they were incensed and embarrassed.

To Herrera, a clear message was sent to the Spanish-speaking members of the crowd: "What we say is not important."

Most of the 150 or so residents began to walk out, forming a steady stream from the auditorium into the hallway. Organizers said they had submitted at least 20 requests for multilingual notices and language services to NMED during the permitting process.

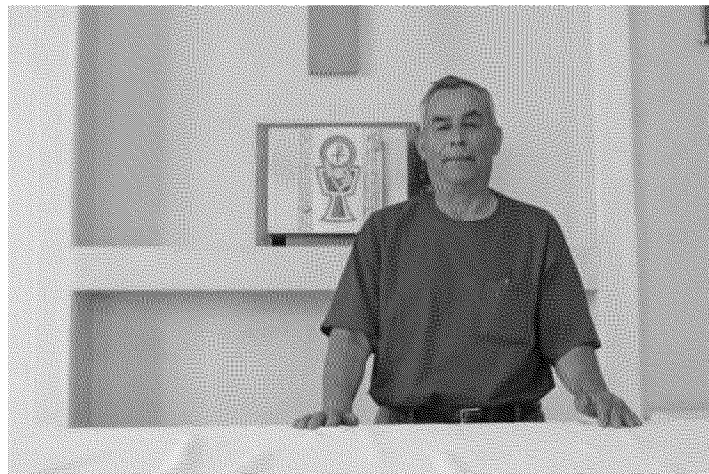
Pullen said he thought Herrera had a "pretty good point" about the presentation. But, since the meeting was voluntary, he wasn't sure it was his place to insist the entire proceedings be translated.

"I can only suggest," Pullen said, "and perhaps I should have."

State law does not require that permit applicants hold public meetings, though residents can request a public hearing through the NMED secretary to voice their concerns.

The meeting served as the basis for the civil rights complaint Deborah Reade filed with the EPA on September 12, 2002. The 27-page complaint alleged that the NMED had discriminated against Spanish-speaking residents during the Triassic Park permitting process.

Beyond the translation issues with the Hagerman meeting, the complaint pointed to the absence of Spanish versions of the permit, a fact sheet and several meeting notices. It alleged that the proposed facility would subject Hispanic residents to disproportionate levels of pollution.



Deacon Jesus Herrera says New Mexico officials rebuffed him when he asked why a presentation was not done in Spanish at a public meeting on a planned hazardous-waste facility. Talia Buford/Center for Public Integrity

The EPA didn't accept the complaint until 2005. Reade prodded the agency in a letter dated November 20, 2007, submitting fresh allegations of public comments missing from the hearing record.

"We are writing to you to amend our original complaint because of new information that we received several months ago," she wrote.

"Unfortunately, we don't actually expect that you will act on this amendment because of EPA's history of ignoring virtually all complaints that are not dismissed outright."

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Digging up the past

Overcoming her hesitancy, Deborah Reade eventually responded to the EPA's 2014 request for more information.

She enlisted the help of her friend, Petrone, who had since moved to Ohio, to interview residents. Petrone, who was finishing up her Ph.D. in education, agreed to tape some of the interviews.

The pair drove 3 ½ hours down U.S. Highway 285 from Santa Fe to Dexter to interview anyone who remembered anything about Triassic Park. They went through boxes of documents long stored in attics seeking information that might be helpful for the EPA's investigation. Reade was heartened by what they found.

"People had not forgotten," she said. "They were still discouraged because they felt they had no power and no chance to make a difference. Now I understood the enormous hurdles people had gone through to come to that Hagerman meeting — to make it all the way to testify, the few of them that did. And I went back actually energized from that experience."

Some things have changed since 2001.

At the NMED, institutional knowledge about Triassic Park is dwindling. Most of the managers involved in the permitting process have left the agency, said Pullen, who has been there 23 years. The NMED is still digitizing the six boxes of documents associated with the permit, he said, and many have been archived.

"It's an issue because the state laws and state regulations don't protect politically powerless people."

- Doug Meiklejohn, executive director of the New Mexico Environmental Law Center

"It's going to be a challenge after 15 years to recall all of the circumstances during that Triassic Park permitting process," Pullen said.

Nonetheless, he said, the controversy all those years ago changed the way the agency does business.

"It wasn't until the Triassic permit process in late 2001 that people were asking for these translation services," Pullen said. "And since then, we have translated every permit hearing that we've been involved in at the Hazardous Waste Bureau."

The agency also posts all of its notices in Spanish and has also translated some notices, and arranged for translators, in the languages of the Navajo and Zuni tribes, who might be concerned about facilities in the western portion of the state, Pullen said.

Then-Gov. Bill Richardson signed an executive order in 2005 requiring all departments, boards and commissions to make sure that public health and environmental notices are posted in Spanish, English and tribal languages or dialects where appropriate.

"It just became the practical and best way to do business," Pullen said.

But the state is still far from utopia for low-income and minority communities, said Doug Meiklejohn, executive director of the New Mexico Environmental Law Center. He pointed to the 2013 repeal of a rule that required the lining of oil and gas waste pits as an example.

Environmental injustice "definitely exists in New Mexico," Meiklejohn said. "It's an issue because the state laws and state regulations don't protect politically powerless people."

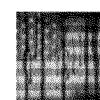
Meiklejohn said his office gets about 100 requests for help each year. Most are turned away, he said, because the three lawyers can only add so many cases to their workload.

Larry Gandy said he doesn't remember much about the initial permitting process for Triassic Park. His father, Dale, had overseen the details of the project, which received a 10-year permit from the NMED in March 2002.

Dale Gandy died on Dec. 30, 2011, less than a month after his 70th birthday and six years after EPA accepted the civil rights complaint for investigation.

"Everything you want to talk about happened many years ago, and

Environmental Justice,
Denied



A look at the environmental
problems that

the gentleman that dealt with everybody is no longer here," his son said.

But Gandy Marley hasn't abandoned Triassic Park.

The company initially tried — unsuccessfully — to position the proposed facility as a destination for waste from Superfund cleanups and, for a time, as a nuclear fuel rod recycling facility through a now-defunct Energy Department program. The clients it hoped to serve found other ways to dispose of their waste, leaving Triassic Park with a permit but no customers.

In 2011, Larry Gandy filed an application to renew the permit, as he is required to do every 10 years. The notice of that re-application was issued in English and in Spanish. The filing reflects a dramatically scaled-back project; it is essentially a placeholder, Gandy said, to keep the permit alive while the company figures out its next steps.

"It is the only permit like this in the state of New Mexico, so we still believe at some point in time, it might still be a viable project," Gandy said.

Deacon Herrera, who spoke out at the tumultuous Hagerman meeting in 2001, is still a voice for his community. These days, however, he focuses on immigration reform.

He takes his lead from parishioners, he said, and furor over Triassic Park has died down.

"Maybe they lost their faith in that matter," Herrera said.

By September 2014, Reade had collected two binders of documents, interviews, and written statements about Triassic Park. She sent it to the EPA's Office of Civil Rights, her hope tempered with realism.

"I don't really expect anything from them," she said.

It's been 312 days. Her case is pending.

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disproportionately affect communities of color.

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Thirteen years and counting: anatomy of an EPA civil rights investigation

By Talia Buford 1 minute ago



Thirty miles from Selma, a different kind of civil rights struggle

By Kristen Lombardi August 5, 2015



Environmental racism persists, and the EPA is

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Mine plug blows in Colorado, dumping 1M gallons of waste

By Kristen Wyatt/The Associated Press



DENVER — A million-gallon mine waste spill that sent a plume of orange-ish muck down a river in southwest Colorado on Thursday was caused by a federal mine cleanup crew.

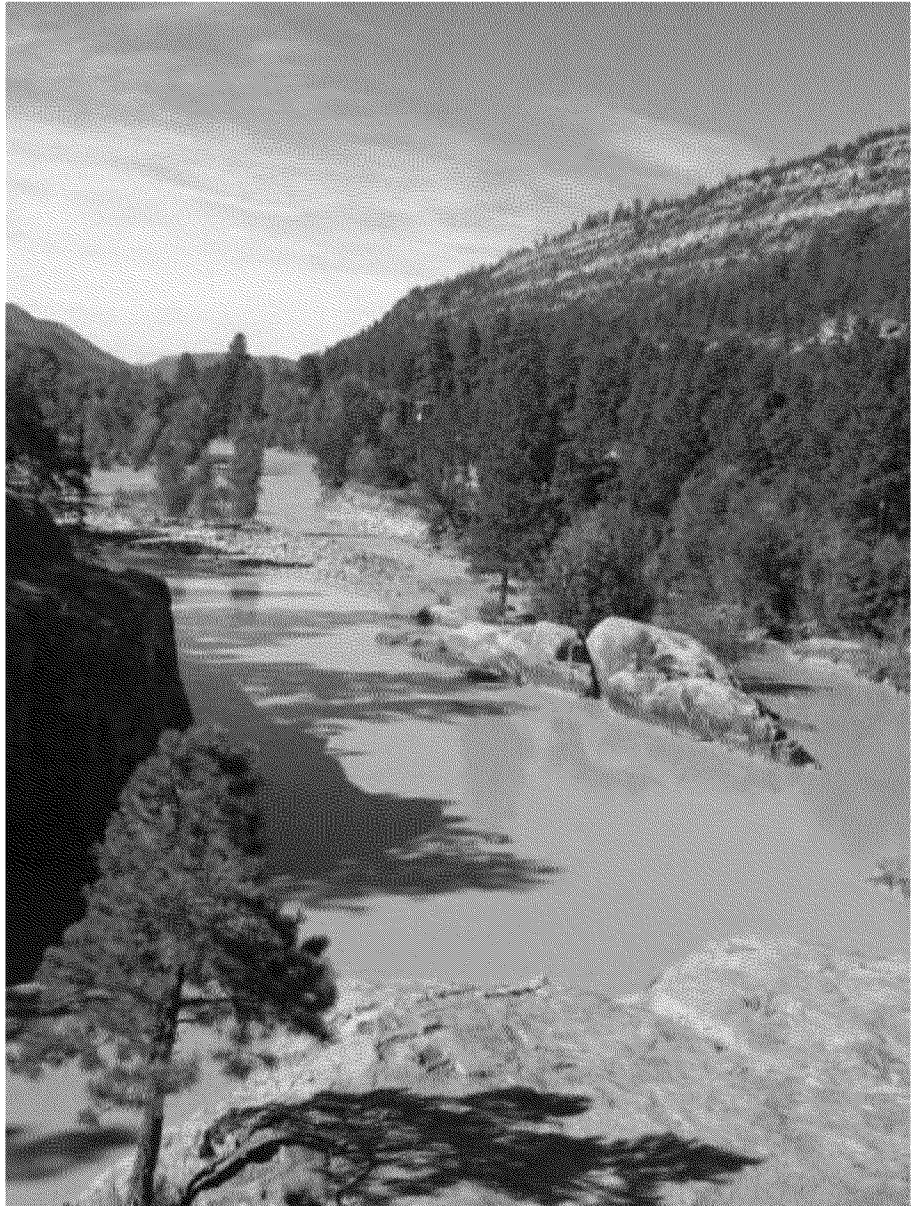
The U.S. Environmental Protection Agency said that a cleanup team was working with heavy equipment Wednesday to secure an entrance to the Gold King Mine. Workers instead released an estimated 1 million gallons of mine waste into Cement Creek.

“The project was intended to pump and treat the water and reduce metals pollution flowing out of the mine,” agency spokesman Rich Mylott said in a statement.

The creek runs into the Animas River, which then flows into the San Juan River in New Mexico and joins the Colorado River in Utah.

Officials emphasized that there was no threat to drinking water from the spill. But downstream water agencies were warned to avoid Animas water until the plume passes, said David Ostrander, director of EPA’s emergency response program in Denver.

Officials weren’t sure how long it would take the plume to dissipate, Ostrander said. The acidic sludge is made of heavy metal and soil, which could irritate the skin, he said.



This photo from the La Plata County, Colo., website shows mine pollution released into the Animas River from a location above Silverton, Colo. The photo was taken at a spot north of Durango, Colo.

The EPA was testing the plume to see which metals were released. Previous contamination from the mine sent iron, aluminum, cadmium, zinc and copper into the water, said Peter Butler, co-coordinator of the Animas River Stakeholders Group.

Earlier Thursday, the EPA said in a statement that the polluted water “was held behind unconsolidated debris near an abandoned mine portal.”

The plume made its way to Durango on Thursday afternoon, prompting La Plata County health officials to warn rafters and others to avoid the water. The scenic waterway was the backdrop for parts of the movie “Butch Cassidy and the Sundance Kid” and is popular with summer boaters.

Durango stopped pumping water out of the Animas River on Wednesday to make sure none of the waste could be sucked up into the city reservoir. It also suspended the transfers of raw water to a local golf course and Fort Lewis College. Pet owners were advised to keep dogs and livestock out of the Animas.

“It’s really, really ugly,” Butch Knowlton, La Plata County’s director of emergency preparedness, told The Durango Herald. “Any kind of recreational activity on the river needs to be suspended.”

Chris Sanchez, a spokesman for New Mexico Gov. Susana Martinez, said in a statement released Thursday night that the governor is “very concerned” by the spill and has ordered state agencies to work with local and federal officials “to ensure the health and safety of New Mexicans is protected.”

“The Governor is disturbed by the lack of information provided by the EPA to our environmental agencies in New Mexico and strongly believes that people in our communities downstream deserve to have all the information about this situation,” Sanchez said.

He said the state was not notified about the release until 9:30 a.m. Thursday even though it is reported to have occurred at about 10:40 a.m. Wednesday and that first notification came from the Southern Ute Tribe.

“Governor Martinez hopes the EPA will be more cooperative and forthcoming moving forward as we work to address this situation and that the EPA will demand the same of itself as it would of a private business responsible for such a spill,” Sanchez said.

In Farmington, N.M., city officials shut down water-supply intake pumps to avoid contamination and advised citizens to stay out of the river until the discoloration has passed. Don Cooper, emergency manager in San Juan County, said people should not panic because the EPA had told the county the spill would not harm people and that the primary pollutants were iron and zinc.

“It’s not going to look pretty, but it’s not a killer,” Cooper told The (Farmington) Daily Times.

The impact on wildlife wasn’t clear. There are no fish in the Cement Creek watershed because of longstanding problems with water quality, the Colorado Department of Public Health and the Environment said.

Colorado Parks and Wildlife was placing cages containing fish in the Animas River to monitor what happens to them, spokesman Joe Lewandowski said.

“We’ll see if those fish survive,” Lewandowski said. “We’re also monitoring to make sure we don’t get infiltration into the hatchery, because that could be a problem.”

The U.S. Fish & Wildlife office in suburban Denver did not immediately return a call asking about the spill.

Durango resident Lisa Shaefer said she was near the mine Wednesday when a mine bulwark broke and sent a torrent of water downstream that raised the water level 2 to 3 feet in Cement Creek. The initial wall of water carried rocks and debris and made a roar as it pushed through a culvert, she said.

"What came down was the filthiest yellow mustard water you've ever seen," she told the newspaper.

 THE LEADER IN ENERGY & ENVIRONMENTAL POLICY NEWS

AIR POLLUTION:**EPA foes turned asthma study into weapon for ozone fight**

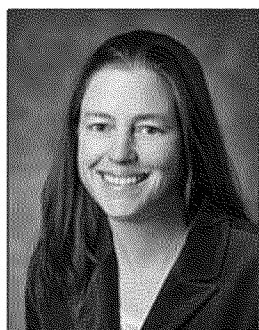
Amanda Peterka, E&E reporter

Published: Thursday, August 6, 2015

When a Johns Hopkins University researcher published a study showing race and income as risk factors for asthma, she started getting phone calls from industry groups opposing U.S. EPA's bid to tighten the national ozone standard.

Dr. Corinne Keet said her newfound fans wanted to use her work to show EPA's ozone proposal wouldn't yield public health benefits.

A pediatrician who specializes in allergies, Keet is not an air pollution expert. Her study published in January in the *Journal of Allergy and Clinical Immunology* didn't even mention ozone.



Corinne Keet, assistant professor of pediatrics at Johns Hopkins University. Photo courtesy of Johns Hopkins University.

"It's been an interesting education for me in terms of how research is interpreted," Keet said in an interview. "I was called by consultants for industry to discuss the results in terms of looking for ways of suggesting that either genetic factors or poverty rather than pollution are important things for asthma."

EPA has proposed tightening the national air quality standard for ozone -- a component of smog -- to between 65 and 70 parts per billion from 75 ppb set by the George W. Bush administration in 2008. Based on a scientific review, EPA said the 75 ppb limit was no longer adequate to protect public health as the Clean Air Act requires.

Industry groups and congressional Republicans oppose the EPA proposal, arguing that ozone isn't a significant factor in whether people develop asthma and citing Keet's study. The bottom line in aggressive media ads and messaging on Capitol Hill: Asthma rates are rising even while air pollution levels are falling.

Their campaign targets the Obama administration's assertion that a tighter ozone standard will help reduce hospital visits and other health care costs tied to asthma.

"When they start saying 'asthma,' of course that's a very compelling story. And the administration likes to tout that," said Howard Feldman, director of regulatory and scientific affairs at the American Petroleum Institute. "That's not necessarily borne out by all the information, the science out there. The trends are not there."

Public health advocates, on the other hand, maintain that foes of the tougher pollution standard conflate two different issues: asthma prevalence -- whether a person develops asthma -- and asthma exacerbation, whether someone who has asthma experiences an attack.

Environmental and health groups want a tougher ozone standard than what the administration proposed because it would improve life for people who have asthma and other respiratory diseases.

The Sierra Club, for example, in April launched a campaign meant to highlight "the challenges of being the working parent of a child with asthma" to coincide with Take Your Child to Work Day.

"We don't know what causes asthma, but we do know what triggers asthma attacks -- indoor pollutants, allergies, and we know that ozone is one of those triggers," said Paul Billings, senior vice president for advocacy at the American Lung Association. "It makes people vulnerable to some of those other triggers as well. Ozone's a powerful respiratory irritant, and people with asthma have sensitive lungs."

'Huge mess of things'

The Centers for Disease Control and Prevention estimates that 18.9 million American adults and 7.1 million children have asthma, according to a 2011 national survey.

Between 2001 and 2011, the CDC says, the number of Americans with asthma increased 28 percent.

Despite its prevalence, asthma remains a difficult health problem for researchers. What's commonly called asthma can involve a number of symptoms. And there's no single cause; whether a person develops asthma is likely the result of a confluence of factors.

But there's plenty of research tying exposure to ozone to worsening symptoms in asthma sufferers. A study published in March in the journal *Environmental Health* found that ambient ozone levels were associated with childhood asthma emergency room visits but that the relationships varied among boys and girls, as well as age groups.

David Peden, director of the University of North Carolina's Center for Environmental Medicine, Asthma and Lung Biology, said studies have so far shown no "absolute cutoff" for what level of ozone pollution harms asthmatics given that some people may have exacerbations at lower concentrations. But, he said, he had "very little doubt" that levels of ozone between 60 and 75 ppb could cause asthma attacks.

Peden has authored several studies on how air pollution affects public health, many of which have been funded by the National Institute of Environmental Health Sciences and EPA.

"Increased levels of ozone can sometimes sneak up on you," Peden said in an interview. "People know they're having an asthma worsening and may not appreciate that they're getting exposed to something that might be causing a very subtle irritation of the airway."

Public health groups have highlighted those connections in their campaigns calling for an ozone standard of no higher than 60 ppb. The American Lung Association, for example, has framed its campaign around kids wanting to play outside and their inability to do so when air pollution levels are high, particularly when children have asthma.

"We can do a lot to help patients manage their asthma. We can give them medication, they can use their devices correctly, but we can't control the ambient air," the association's Billings said. "Only through the power of collective action, through government, can we force the polluters to clean up and reduce that burden."

EPA says reducing ozone pollution to between 65 and 70 ppb would prevent between 750 and 4,300 premature deaths, between 1,400 and 4,300 asthma-related emergency room visits, and between 320,000 and 960,000 asthma attacks in children yearly by 2025. Taking into account reduced asthma attacks, EPA estimated that the benefits of the ozone rule would outweigh costs 3-1.

Industry, meanwhile, has focused its messaging on where the science is less certain: ozone's role in causing people to get asthma.

There's emerging evidence that air pollution has played a role in the upward trend in asthma cases over the last decade but it's likely one of a "huge mess of things," said Mary Rice, an instructor of medicine at Harvard University's Beth Israel Deaconess Medical Center.

"More doctors are aware of asthma, pollen seasons are longer, obesity, nutrition, diet, air pollution could be in the mix," Rice said. "Most studies suggest that [air pollution] contributes to the risk of asthma, but it's only one risk factor among many, many things that can contribute."

EPA acknowledges the recent research on air pollution triggers for asthma in the scientific documents underlying the rule, but the agency confined its benefits analysis to asthma attacks.

Industry, however, has accused the Obama administration and public health groups of overselling the ties between ozone pollution and asthma prevalence.

"Air quality has been increasing, pollution has been decreasing, things are getting better and asthma's getting worse," said Daniel Simmons, vice president for policy at the Institute for Energy Research (IER), a conservative think tank that's partly funded by the Koch brothers. "You have this disconnect."

The Texas Commission on Environmental Quality, one of EPA's biggest critics, has long questioned the agency's conclusions about asthma.

In its newsletter last October, the commission said it concluded that human volunteers exposed to ozone showed similar lung effects in asthmatics and in non-asthmatics, and that children were no more sensitive to ozone than young adults. The state pointed to increasing asthma admission rates in Texas as its proof.

"If asthma were actually tied to ozone, you would expect to see the instances of asthma decreasing, not increasing," the newsletter said. "In fact, data from Texas hospitals show that asthma admissions are actually highest in the winter, when ozone levels are the lowest."

'Erroneous conclusion'

The study by Johns Hopkins' Keets examined 23,065 children and found that race and income were risk factors for asthma, regardless of whether a child lived in an urban or rural area.

"Although the prevalence of asthma is high in some U.S. inner cities, it is equally high in some poor nonurban areas," the study found. "Taking the United States as a whole, living in an urban neighborhood is not associated with increased

asthma prevalence."

The study was supported by EPA, the National Institute of Environmental Health Sciences, the National Institute of Allergy and Infectious Diseases and the National Cancer Institute.

Shortly after the study's publication in January, at least two opponents of EPA's proposal to tighten the national ozone standard touted its results as disproving EPA's claims about asthma.

In blog posts, IER and the Heartland Institute said the study showed that asthma prevalence was not higher in urban areas, where air pollution was typically more of a problem.

They argued that EPA's proposal, by imposing high compliance costs, could actually increase asthma prevalence by making people poorer.

"In light of this new evidence, EPA should rescind its proposed ozone rule," IER wrote. "This rule could exacerbate the public health problem it is trying to mitigate and impose enormous economic burdens on American families. Moreover, ozone levels are already declining without further regulation, obviating the need for more federal mandates."

Keet said such arguments are a "distortion" of her research team's findings.

In March, she wrote to EPA Administrator Gina McCarthy in an attempt to set the record straight. In her letter, she noted that the study did not examine air pollution and that living in an urban area should not be taken as a surrogate for high exposures to pollution.

"This study's finding has been misinterpreted by some who believe that it suggests that air pollution in general, and ozone in particular, is not important for asthma," she wrote. "This is an erroneous conclusion."

Still, the study was the subject of an intense exchange between in June between Rep. David McKinley (R-W.Va.) and Johns Hopkins University air pollution researcher Gregory Diette at a hearing of the House Energy and Commerce Committee.

Diette had been testifying that the science dictated that EPA set a lower ozone limit. McKinley -- whose son has asthma -- asked Diette to account for the Keet study.

"This report, Dr. Diette, from your Johns Hopkins institution, they have come out with a report themselves just recently and said they can't find a connection," McKinley said. "They say there is no statistical difference between the rates of asthma attacks in high-pollution areas than in non-pollution areas."

Diette shot back: "Just so it is clear, the conclusion of the study is not what you said it was."

As recently as last month, IER cited the study in a blog post that attempted to discredit the Obama administration's health claims used to justify the Clean Power Plan.

Simmons acknowledged that the authors of the study have disputed the group's interpretation of its results but said the findings still raised a "very important question" about the links between ozone and asthma.

"It looked at asthma in inner cities and asthma in the suburbs, and there was not a statistically meaningful difference," he said. "The inference that we drew from that is, don't you have more air pollution in inner cities than you do in the suburbs?"

Several researchers also suggested that industry is focusing on an area where the science is still unsettled -- what causes a person to have asthma -- and not on the part of the question where the science is more certain -- whether ozone increases the likelihood of attacks in people who already have asthma.

"The discussion of asthma going up is confusing the issue of the prevalence of asthma, meaning how many people develop the disease versus the disease course, so how sick the people who have asthma get," said Harvard's Rice, who was grilled about the asthma-ozone link by Rep. Jim Bridenstine (R-Okla.) at a recent hearing.

"At this point," Rice said, "there's very strong evidence to show that exposure to higher levels of ozone increases the risk of asthma attacks. I would say dozens, perhaps even hundreds of studies show that when ozone goes up, people who have asthma get sicker."

Some critics of EPA's scientific analysis argue, though, that there's also more uncertainty in the science linking asthma exacerbation and ozone than EPA is portraying.

"I don't think EPA fully takes into account uncertainties and other explanations for asthma exacerbations," said Julie Goodman, a principal at the consulting firm Gradient who has done ozone research for Texas and API. "Several things trigger asthma attacks, and it's very difficult to tease out what causes them in an epidemiology study."

Goodman is working on a paper that she said will prove the weight of evidence suggests the tighter standard won't have

-- AIR POLLUTION: EPA foes turned asthma study into weapon for ozone fight -- Thursday, August 6, 2015 -- www.eenews.net
Goodman is working on a paper that she said will prove the weight of evidence suggests the tighter standard won't have an impact on the number of asthma attacks.

"At certain exposure levels, ozone can exacerbate asthma. The question isn't whether it can," Goodman said. "The question is at what exposure level this happens and will lowering the standard have any additional health benefit. ... We conclude that the current standard is sufficient to protect public health."

'Something that resonates with anyone with a heart'

One area of agreement: Asthma is a powerful way to sell a new ozone standard, given how many Americans are affected by the disease.

Although ozone pollution has also been linked to premature death, Rice said focusing on asthma is a more real way to portray the dangers of ozone to humans.

"I think that as the risk of death goes up, it's harder for people to get their heads around than an asthma attack," Rice said.

EPA has also used asthma to attempt to coalesce support for its Clean Power Plan to reduce carbon dioxide emissions from existing power plants.

"We can all think of children with asthma and just how hopeless we feel. You see a child struggling and you want to help the child," IER's Simmons said. "So asthma is something that resonates with anyone with a heart."

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THE TRANSFORMATION OF THE ENERGY SECTOR

CLEAN POWER PLAN:

EPA rule earns ridicule in oil and gas country, but some support percolates

Edward Klump, E&E reporter

Published: Wednesday, August 5, 2015

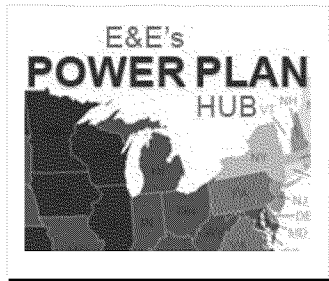
HOUSTON — If there's one thing traditional oil and gas states don't like, it's being told how energy policy should work.

Consider the ferocity of comments from three of the country's most prominent energy-producing states that followed this week's release of U.S. EPA's Clean Power Plan, which aims to reduce carbon dioxide emissions from power plants.

Texas Gov. Greg Abbott (R) said the federal government seems "hell-bent on threatening" principles of a free market. Oklahoma Gov. Mary Fallin (R) called EPA's plan "one of the most expansive and expensive regulatory burdens ever imposed on U.S. families and businesses." Louisiana Attorney General James Caldwell (R) said EPA's move "will lead to fewer jobs and higher utility bills."

These energy states are among the most vocal opponents of the Clean Power Plan, even as their jurisdictions could see benefits from increased wind, solar or natural gas used in generating U.S. electricity (*E&ENews PM*, July 24, 2014).

"The idea that the EPA is announcing regulations that all the states have to comply with puts the hair up on the back of the Texas neck," said Cal Jillson, a political science professor at Southern Methodist University in the Dallas area. "Even though it's telling us to continue moving in the direction that we're already moving, it's setting standards that we must meet."



That means the reaction is, according to Jillson: "We'll mind our own business down here. You guys leave us alone."

He called Oklahoma and Texas "classic" energy states, while Louisiana is a little different. But the Pelican State does have Gov. Bobby Jindal as a Republican presidential candidate, which Jillson said comes with a desire to promote states' rights.

To be sure, deep concerns about prices and changes to the electric market have been raised.

The Electric Reliability Council of Texas, the state's main grid operator, said last year that EPA regulations, including the Clean Power Plan, could lead to the retirement of thousands of megawatts of coal-fired generation while possibly raising prices and affecting reliability (*EnergyWire*, Nov. 18, 2014). The operator said it's reviewing the final rule.

Still, the reality is different in this region than in states such as West Virginia and Kentucky, which are synonymous with coal.

Texas leads the nation in installed wind capacity, according to the American Wind Energy Association. And the state is considered poised to add substantial solar power. Oklahoma also has boasted of its renewable potential. Those states, as well as Louisiana, are known for ties to natural gas, including production and processing businesses.

But Bruce Bullock, director of the Maguire Energy Institute at SMU, said that when it comes to an agency such as EPA, Texas businesses might fear that "if you give 'em an inch, they're going to take a mile." He said the final carbon rule may have been an overreach by the Obama administration, and he said there's concern about control of large segments of the economy from Washington, D.C.

"I don't think the natural gas producers want to be a part of that any more than anybody else does," Bullock said.

State responses

The Clean Power Plan seeks to reduce carbon emissions from power plants 32 percent by 2030 compared with 2005 levels. That's a deeper cut than the 30 percent figure proposed previously. Targets vary by state, and an interim date has been pushed a couple of years to 2022. States can develop a response or face a possible federal plan.

Texas, Oklahoma and Louisiana have somewhat less stringent interim and 2030 goals compared with earlier proposed figures, according to state fact sheets from EPA, while groups and officials continue to comb through details of the plan. The final Clean Power Plan also has shifted toward renewables and somewhat away from natural gas (*ClimateWire*,

John Fainter, president of the Association of Electric Companies of Texas, said companies have variations in fleets and fuel mixes that affect their outlooks. In the end, Fainter said he hopes Texas takes part in any discussion even as litigation is expected.

"I think the state is better off being at the table bargaining with the federal government than saying 'we're not going to do that' and we end up with a federally mandated program," Fainter said.

The Texas Commission on Environmental Quality said concerns remain over legal and practical aspects of the Clean Power Plan, while the state has questions on issues such as usurping states' authority.

"We will review the final rule against those concerns and determine the appropriate response," the commission said in a prepared statement.

Texas Attorney General Ken Paxton (R) has left little doubt about a plan for litigation over the Clean Power Plan. He said this week that Texas won't "back down in fighting this aggressive overreach in court."

Paxton does face a possible distraction in the form of being charged with securities fraud, as reported by the Associated Press and other outlets. AP has said the attorney general is expected to plead not guilty.

In Oklahoma, Fallin signed an executive order earlier this year that sought to prevent the state from submitting a state implementation plan. Scott Pruitt (R), the state's attorney general, has vowed to continue fighting EPA's plan after earlier litigation attempts.

Caldwell, the Louisiana attorney general, has been part of efforts in litigation, and he said another attempt would be coming.

Mike Reed, a communications director for Jindal, said the carbon plan "undermines the role of states in the federal Clean Air Act in an effort to realize a radical, liberal agenda that will lead to increased energy costs." He said the plan should be withdrawn and that the state is considering its options, although the next governor may have to deal with the issue further.

Entergy Corp., a major Louisiana-based power company, said it is reviewing the rule but continues to have concerns about the legality of the approach.

Different calculations

David Spence, a professor of energy law and regulation at the University of Texas, Austin, said there likely will be a "tsunami" of litigation over the carbon plan.

That's in part because of the level of change it seeks in the power sector, including with coal, he said. Then there's the ideological factor, he said, as challenges are smart politically in certain areas. Spence also said the rule could be stretching the Clean Air Act, and courts will have to face points of interpretation.

He said a company with a large amount of gas-fired generation might wonder "what my elected representatives are thinking" in their responses. The same might be true for some gas producers, Spence suggested.

But he said a large oil and gas company might think, "What industry are they going to come after next?" The answer could be refineries, he said.

"It's a different calculation for each player, but certainly for the small gas producers who don't own downstream facilities like refineries, they stand to gain a lot from this," Spence said.

John Hall of the Environmental Defense Fund in an online piece outlined what he considers opportunities for Texas through the Clean Power Plan.

"We have an abundance of wind, sun, and natural gas -- plus the transmission infrastructure to get them on the grid," Hall wrote. "We've barely begun to tap into the potential of resources that help households and businesses reduce their utility bills, like energy efficiency and demand response."

Jillson said the plan would "put the federal thumb on the scale against coal ... and in favor of natural gas and even more in favor of renewables." That also could put some Texas coal-fired plants in the crosshairs.

Luminant, a power producer whose fleet includes coal and nuclear generation, said it's reviewing the final plan before commenting in detail, but it noted the importance of having a mix of generation sources. In the past, the company has raised issues with how the carbon proposal could affect costs and reliability.

Calpine Corp., which has a number of gas-fired plants in Texas, has offered support for the Clean Power Plan.

"This flexible, market-based solution will reward the companies that invest and have invested smartly in cleaner

generation," CEO Thad Hill said in a statement this week.

At CPS Energy, San Antonio's municipal gas and electric utility, there has been talk of a lower-carbon future and hope of Texas' engagement on the issue.

"We've kind of stayed agnostic to the political aspect of this conversation," said Rudy Garza, vice president of external relations at CPS, adding that "our strategy aligns with ... what the EPA is trying to do here."

Room for discussion

Some leaders in neighboring Arkansas have indicated opposition to the final Clean Power Plan while leaving the door open to discussions.

"While we will continue to fight the final rule, we will also work with our industries and consumers to determine a lowest cost option to compliance," Gov. Asa Hutchinson (R) said in a statement this week.

The governor said he directed leaders at the Arkansas Department of Environmental Quality and the state's Public Service Commission "to fully review this rule and develop the best response for our state."

In Oklahoma, Whitney Pearson of the Sierra Club's Beyond Coal Campaign touted the potential of the Clean Power Plan as a way to reduce carbon emissions, adding that Oklahoma is a leader in developing renewable energy.

"Rather than blocking a state-developed plan, we should support a program that is created here in Oklahoma and works best for our state," Pearson said in a statement.

Casey DeMoss, CEO of the New Orleans-based Alliance for Affordable Energy, said Louisiana is vulnerable to sea-level rise and stronger storms, meaning that cutting carbon pollution should be important given the cost of potential destruction. She called for an open process to help work on the issue.

"This plan is critical toward meeting our country's global commitments to decrease carbon pollution," DeMoss said.

Al Armendariz, a former regional administrator at EPA, said President Obama "took a huge step" in showing that the United States is serious about the climate.

"From the perspective of Texas, Louisiana and Oklahoma, unless we want even hotter summers and even more frequent drought, we have to deal with climate change," said Armendariz, who's involved in Sierra Club's Beyond Coal campaign.

He said the new rule will kick-start a transition away from coal toward renewable energy in Texas, meaning a number of coal-fired power units may retire.

Armendariz called for Texas to develop a transition plan to help replace jobs related to lignite that's burned in power plants, and he said it may turn out that Texas has to deal with a federal plan for the carbon rule.

As far as the potential for changes in generation, Armendariz said the Sierra Club prefers to move from coal to renewable energy and to use as little gas as possible.

"There could be an increase in the use of natural gas, and that might be good for certain Texas oil and gas producers, but I think EPA intentionally designed this final rule with longer timelines," he said, which could help maximize renewables. He said a shift from coal could see electric bills remain roughly flat or perhaps save people money.

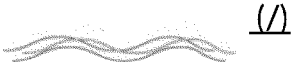
In Houston, which often is called the energy capital of the world, climate action is on the agenda. Mayor Annise Parker (D) embraced the issue this week in a joint statement with the mayor of Los Angeles about action that's underway.

Still, state leaders in Texas won't necessarily fall in line with EPA's plan without a fight. That wouldn't be the Texas way, according to one observer.

"When the feds say white, we say black," said SMU's Jills on. "When they say black, we say white."

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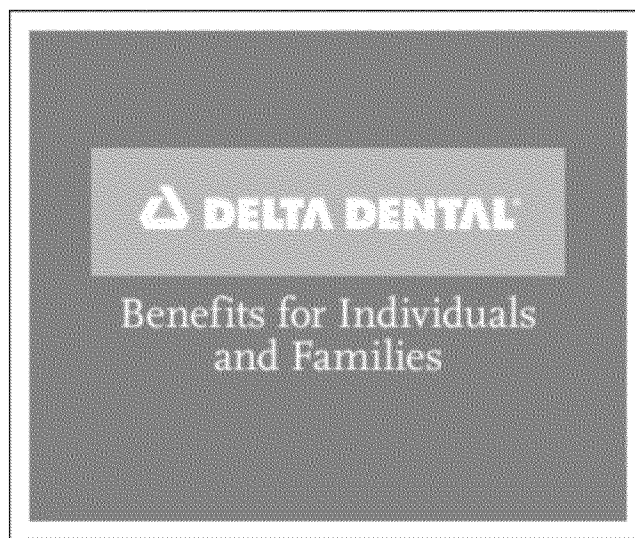
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Inhofe, Lankford Want More Information About EPA 'Waters Of The United States' Rule

By [BRIAN HARDZINSKI \(/PEOPLE/BRIAN-HARDZINSKI\)](#) • 22 HOURS AGO

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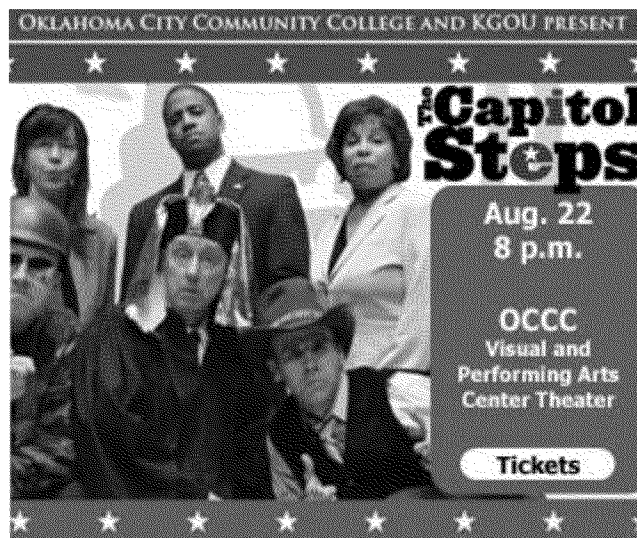


Both of Oklahoma's U.S. Senators sent a letter (http://mediad.publicbroadcasting.net/p/kgou/files/201508/lankford_inhofe_letter_to_epa_re_wotus_8) to Environmental Protection Agency administrator Gina McCarthy Wednesday requesting documents and clarification regarding the Waters of the United States (<http://www2.epa.gov/cleanwaterrule>) rule.



(http://mediad.publicbroadcasting.net/p/kgou/files/styles/x_large/public/201401/140128_SIOK_Wate

CREDIT JAMES RINTAMAKI / FLICKR



U.S. Sens. James Lankford (lankford.senate.gov) and Jim Inhofe (inhofe.senate.gov) want to know whether certain procedures violate regulatory flexibility and small business acts, as well as an executive order on the powers of the federal government.

“Unfortunately, rather than complying with these requirements, EPA claimed that no outreach or consultation was required, arguing that the governments, and the Small Business Administration’s Office of Advocacy strongly disagree with the EPA’s assertions,” the Senators wrote in their letter. “Instead of meeting its obligation to consult with small businesses, states, and local governments, EPA utilized taxpayer provided resources to amplify the viewpoint it wanted to hear.”

The two Republicans also asked for documents related to the rulemaking process and public outreach for the Waters of the U.S. rule created between January 2014 and May of this year. They want the documents by August 26th:

1. 1. All documents, including emails, relating to outreach efforts, public relations strategies, social media efforts, and public meetings undertaken in connection with the WOTUS rule, and the dates of those actions.
2. 2. All documents, including e-mails regarding EPA outreach efforts, including all communication via official EPA Facebook, Twitter, Instagram, Vine, Pinterest, Thunderclap, and all other media platforms, as well as the dates they were disseminated.
3. 3. All documents, including e-mails regarding efforts made by EPA in furtherance of soliciting comments from varied groups of stakeholders with viewpoints surrounding the WOTUS rule, including those opposed to the rule.
4. 4. All documents, including e-mails regarding EPA decision to prioritize WOTUS rule as the subject of a public outreach campaigns.
5. 5. All documents, including e-mails regarding WOTUS items that EPA decided it would include and exclude from the rulemaking docket.
6. 6. All documents, including e-mails, relating to the process EPA implemented when counting comments to reach over 1 million public comments on the proposal, along with the determination process for duplicative comments from January 1, 2015 to the present.

Inhofe and Lankford cited a May article in *The New York Times* (http://www.nytimes.com/2015/05/19/us/critics-hear-epas-voice-in-public-comments.html?_r=0) as one of the reasons behind their letter. The newspaper reported the WOTUS public comment period included many remarks generated by the EPA itself.

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TAGS: [WATERS OF THE UNITED STATES \(/TERM/WATERS-UNITED-STATES\)](#)

Economic Alliance participates on Ozone Round Table

Posted: Thursday, July 30, 2015 2:39 pm

HCN NEWS SERVICES

WASHINGTON, D.C. - The U.S. House of Representatives Energy and Power Subcommittee, chaired by Rep. Ed Whitfield (R-KY), on Wednesday held a roundtable in Washington, D.C. entitled, "EPA's Proposed Ozone Rule: Potential Impacts on Manufacturing and Jobs."

The Economic Alliance Houston Port Region was invited to participate and City of Deer Park Mayor, Jerry Mouton, Jr. represented the Economic Alliance and the city during the meeting.

The discussion builds off the committee's ongoing work to highlight the potentially devastating effects on jobs and economic growth in many areas of the country from EPA's proposed revisions to the current National Ambient Air Quality Standards for ground level ozone.

Mayor Mouton set the tone of the conversation when he was invited by Chairman Whitfield to be the first speaker after introductory comments by Congressmen Brian Babin, Gene Green and Pete Olson.

Mayor Mouton provided an overview of the national significance of the Houston Port Region, including sharing that the Port of Houston has more than 8,000 vessel and 200,000 barge movements per year, supports 1,026,820 jobs throughout Texas, provides more than \$178.5 billion in statewide economic impact, including more than \$4.5 billion in state and local tax revenues, and has a \$500 Billion national economic impact. In addition, the Port of Houston has a regional market reach of over 28 million people within a day's drive, and trade around the world totaled \$62.67 billion through the first five months of 2015, alone.

In addition, Mayor Mouton explained to the committee the important economic development relationship between the industry and communities in the region, and how with more than 50 air monitors, the Houston region has the most extensive monitoring network in the U.S. and should be considered a model for the EPA to use. The Houston Regional Monitoring (HRM) Network is an important part of Houston's air monitoring system, and is committed to the scientific understanding



Economic Alliance participates on Ozone Round Table

Panelists from left to right: Mayor Jerry Mouton of Deer Park, Texas, Mayor Larry Waters of Sevier County, Tennessee, Chris Norch, President of Denison Industries, George Williams, CEO of PMI Energy Solutions, Gregory Johnson, Director of Legislative Affairs at the Sherwin-Williams Company, and Joseph Stanko of Hunton & Williams LLP.

of air quality in the Houston area. Electronic and hard copies of HRM's 2014 brochures were provided to committee members and guests.

Mayor Mouton concluded the roundtable with closing remarks stating that EPA's ozone rules affect all aspects of our communities and municipalities, including consumers and vital industries. EPA data indicates that the air is cleaner today than it has been in thirty years, progress due in large part to control measures associated with past and current standards. This process shows that ozone standards, when given an opportunity to be fully implemented produce significant reductions. He requested that the EPA should allow the 2008 standards that opportunity.

"We will lose business, jobs, and the quality of life we have in our region, and nation, if these standards are changed in the middle of the game." Mayor Mouton concluded, "I implore you, let's use common sense and not allow the EPA to destroy our economy."

"This is another example of how this region acts in the best interest of not only its citizens, but its economic base," said Chad Burke, President and CEO of the Economic Alliance Houston Port Region. "We are always willing to participate in conversations at the local, state, and national level to be certain our collective voices are heard."

For more information on the hearing please see: <http://energycommerce.house.gov/press-release/subenergypower-continues-examination-epa%E2%80%99s-proposed-ozone-rule>



Texas Says EPA Administrative Actions under CERCLA Trigger Duty to Defend

By Shawn Ledingham on August 6th, 2015

As any company facing EPA administrative action under CERCLA knows, the financial risk and defense costs associated with those proceedings can be the same as the risk and costs of an EPA lawsuit under CERCLA. But insurers have argued that administrative actions are very different from suits under standard CGL policies. Those policies, insurers argue, provide defense coverage to costs related to “suits,” not administrative actions. Joining a clear majority of state courts, the Texas Supreme Court recently rejected this narrow interpretation of the duty to defend in *McGinnes Indus. Maint. Corp. v. The Phoenix Ins. Co.*, holding that a CGL insurer must provide a defense in CERCLA administrative actions.

The policyholder, McGinnes Industrial Waste Corporation, allegedly dumped pulp and other paper mill waste into disposal pits, resulting in environmental contamination at the site. EPA investigated the site and issued letters to the policyholder putting it on notice that EPA considered it potentially responsible parties (“PRPs”) for the contamination and requesting that they negotiate with EPA for the cleanup of the site and payment of EPA’s costs. EPA’s letters also demanded considerable information about McGinnes’s activities at the site.

McGinnes contacted its CGL insurers and demanded a defense. The insurance companies refused, on the ground that the policies provided for “the right and duty to defend any suit against the insured” seeking certain covered damages, but the EPA proceedings were not a “suit.” EPA ultimately issued a unilateral administrative order requiring McGinnes to conduct a remedial investigation and feasibility study, or face punitive damages and penalties. McGinnes sued its insurers for declaratory relief in federal court, but lost on the issue of whether the insurers had a duty to defend.

On appeal, the Fifth Circuit Court of Appeals certified the question to the Texas Supreme Court, asking “whether the EPA’s PRP letters and/or unilateral administrative order, issued pursuant to CERCLA, constitute a ‘suit’ within the meaning of the CGL policies, triggering the duty to defend.” The Texas Supreme Court held they did, for three reasons:

- First, “CERCLA effectively redefined a ‘suit’ for cleanup to mean proceedings conducted by one of the parties, namely EPA, followed by an enforcement action in court, if necessary.” Under CERCLA, judicial functions are ceded to EPA and review by courts is limited to abuses of EPA’s discretion. These administrative proceedings are “suits,” just not suits that take place inside a courtroom.
- Second, the cleanup costs EPA seeks through its administrative processes are undeniably “damages”

under standard CGL policies. Not even the insurance companies argued otherwise. The Texas Supreme Court expressed concern about the perverse incentives that would result if insurance companies had a duty to pay damages for cleanup costs, but had no duty (or right) to defend those actions.

- Third, the Texas high court recognized the importance of consistent insurance policy interpretations across jurisdictions. By the court's count, thirteen state high courts had held that insurance companies have a duty to defend in environmental administrative actions, and only three state high courts had held otherwise (all in decisions decided over fifteen years ago, as the court noted).

The Texas Supreme Court's decision continues the momentum of the majority of state courts that have recognized there is a duty to defend administrative actions under CERCLA or similar state laws. Even in the handful of jurisdictions holding otherwise, the trend appears to be against formalistic interpretations of the word "suit," where administrative proceedings resemble traditional in-court lawsuits. This is good news for policyholders facing EPA action.

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Guest writer

Protecting the state

Water rule is federal overreach

By Leslie Rutledge Special to the Democrat-Gazette
This article was published August 6, 2015 at 2:45 a.m.

Comments (19)

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Having grown up near the banks of the White River in the Ozark foothills, I fully appreciate the clean water that helps make us the Natural State.

Like all Arkansans, I want to protect our clean water for future generations, but there is currently a push from aggressive Washington, D.C., bureaucrats to control all water in Arkansas, even roadside ditches, because they think they know how to protect our clean water better than we do.

On June 29, the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers published the final Waters of the United States rule to be implemented on August 28. The new rule, at over 370 pages, seeks to expand the definition of the Clean Water Act's "navigable waters" to include small tributaries and other bodies of water close to lakes and rivers, but instead of clarifying an already confusing federal law, it only adds greater uncertainty.

The EPA and the Corps chose to blatantly ignore that Congress recognized that the states should retain their authority over state land and water resources. However, I firmly believe that Arkansas, not Washington, knows how to ensure protection of our clean waters without creating severe economic harm for farmers, businesses and towns, and more importantly, without destroying the property rights of landowners.

With the new rule, I believe the EPA has unlawfully exceeded the limitations that Congress intentionally placed on the federal agencies under the Clean Water Act.

In response, I have partnered with 12 other states and filed a lawsuit to challenge the legality of the Waters of the U.S. rule. The EPA and the Corps have overstepped the limits of the law by attempting to expand the federal government's authority over small streams, tributaries and even ditches within our state. It is my duty as attorney general to protect the interests of the many farmers, landowners and small-business owners across Arkansas by preventing implementation of this harmful rule.

I firmly believe that Arkansas is in the best position to safeguard its clean-water resources so the needs of the state's agricultural and business communities are protected. Across the country, the states have shown a superior ability to communicate with local businesses on the meaning of environmental rules and, even more importantly, how those rules will be enforced.

This is not the first time the EPA or the Corps have attempted to reach beyond their jurisdiction. The U.S. Supreme Court has already had to step in twice when the agencies have attempted to exceed their legal authority through unlawful enforcement of the Clean Water Act. In 2001 and 2006, the Supreme Court ruled against the Corps and its interpretation of the Clean Water Act. But now the agencies are attempting to take advantage of the court's ambiguity in those decisions by

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expanding the court's narrow rulings to meet their policy goals.

While on the surface the new rule works to make it more clear which bodies of water are included under the definition, it brings potentially dangerous consequences for the agricultural community and other landowners. The final rule includes tributaries that show "physical features of flowing water," even if they are not running year-round, and ditches that could potentially "carry pollution downstream." There is no doubt that the rule defines what bodies of water are included because it gives the agencies authority over almost every body of water.

This rule creates a high probability that a landowner or farmer will be subject to new, major regulations, burdensome permitting and hefty fines by the EPA and the Corps. Noncompliance could result in fines of up to \$37,500 per day and criminal charges.

The states' victory in the recent Supreme Court decision in *Michigan v. EPA* helps to serve as a reminder to the EPA that it is not above the law and of the consequences for audacious disregard of its limitations. As the court emphasized in this case the need for serious consideration of costs in the regulatory process, I am concerned that the Waters of the U.S. rule will not provide greater protection for Arkansas' water resources and will impose greater costs on Arkansans through unnecessary and overly bureaucratic regulations.

Rest assured, I will fight to protect Arkansas from Washington bureaucrats seeking to advance policy goals without congressional authority, and I look forward to joining you in enjoying Arkansas' clean water for generations to come.

-----v-----

Leslie Rutledge is the 56th attorney general of Arkansas.

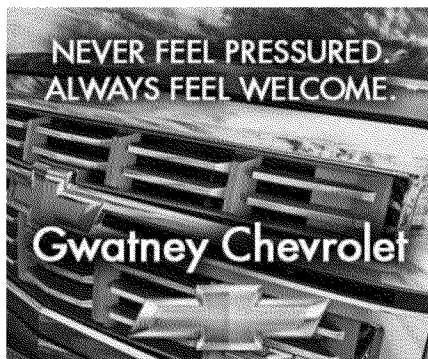
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Climate change a big reason to vote in 2016

BY EUGENE ROBINSON : AUGUST 6, 2015

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The vast majority of scientists who have devoted their professional lives to studying the Earth's climate believe human-induced warming is an urgent problem requiring bold action. Republican candidates for president insist they know better.

With one possible exception — Sen. Lindsey Graham of South Carolina, who barely registers in the polls — GOP contenders either doubt the scientific consensus on climate change or oppose attempts to do anything about it. This promises to be one of the starkest ideological divides facing voters next year.

No pressure; it's only the fate of the planet hanging in the balance.

Before President Obama could even announce his administration's tough new curbs on carbon emissions from power plants, Republican hopefuls launched pre-emptive attacks. Sen. Ted Cruz of Texas, who flat-out denies that climate change is taking place, accused scientists of "cooking the books" and Democrats of choosing "California environmentalist billionaires and their campaign donations" over "the jobs of union members." Sen. Marco Rubio of Florida charged that the new rules "will make the cost of electricity high for millions of Americans." Former Florida Gov. Jeb Bush called the regulations "unconstitutional" and claimed they would cost jobs.

These comments came at Sunday's Freedom Partners forum, organized by conservative

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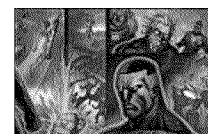
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billionaires Charles and David Koch to give GOP candidates a chance to strut their stuff. In that setting, I suppose, reality-based rhetoric would be too much to hope for.

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For the record, let's take a moment to deal with the above-quoted blather, which is typical of the lines of "argument" from the multitudinous GOP field.

To claim there is no atmospheric warming, Cruz cherry-picks one set of satellite measurement data — paying no attention to other data sets, which show continued warming — and chooses 1998 as a starting point. But that year was an obvious outlier; temperatures took a huge and anomalous leap, likely because of an unusually strong El Nino phenomenon in the Pacific Ocean.

Any graph of yearly global temperatures forms a saw-tooth pattern, but the overall trend is unambiguously upward. Cruz and other climate-change deniers ignore the fact that nine of the 10 hottest years on record have occurred since the turn of the century — the one exception being 1998. The deniers also pretend to be unaware that the concentration of carbon dioxide in the atmosphere has increased by a stunning 40 percent since the beginning of the Industrial Revolution, when humans began burning fossil fuels in large quantities. Unless Cruz has rewritten the fundamental rules of physics, such an increase has to cause warming.

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Rubio claims the new carbon rules will be too expensive for consumers, but he seems not to know that utility companies are already moving away from coal, which releases more carbon dioxide than other fuels such as natural gas. The Obama administration has estimated that electricity prices might rise 4.9 percent by 2020 — a small price to pay given the stakes.

As for Bush's claim that the regulations are unconstitutional, the Supreme Court ruled last year that the Environmental Protection Agency has the authority under the Clean Air Act to regulate carbon emissions by power plants, factories and other polluting facilities. The 7-2 decision was written by Justice Antonin Scalia. Enough said.

The rest of the GOP field ranges from hopeless to hapless on the issue. Front-runner Donald Trump — I can't believe I wrote those words, but that's what he is — firmly belongs in the former camp. He has called global warming a "hoax" and once said the whole idea "was created by and for the Chinese in order to make U.S. manufacturing noncompetitive." Trump has also cited cold winter weather in the United States as "evidence."

These Republicans seem to forget that the Earth is really, really big — so big that it can be cold in one place, such as Manhattan, and hot in other places. At the very same time.

Of the other candidates, Ohio Gov. John Kasich, New Jersey Gov. Chris Christie, former New York Gov. George Pataki and businesswoman Carly Fiorina have all at times acknowledged the scientific consensus on climate change but hemmed and hawed about what, if any, action to take. Rick Santorum joins Trump and Cruz in full denial. The rest — Scott Walker, Mike Huckabee, Rick Perry, Rand Paul, Bobby Jindal, Ben Carson and Jim Gilmore — either aren't sure warming is taking place or don't know if humans are causing it.

Democrats Hillary Clinton and Bernie Sanders both promise even tougher action against climate



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LANL theft, fraud scandal back in focus

Mark Oswald / Journal Staff Writer

Chuck



Former Los Alamos National Laboratory investigators Glenn Walp, left, and Steve Doran, center, are shown here being sworn in along with Jaret McDonald, then a lab employee and contractor, at a 2003 congressional hearing on questionable purchases and loss of equipment at the lab. (AP Photo/Susan Walsh)

Montaño was a long-time thorn in the side of Los Alamos National Laboratory management, from the inside. And he's not stopping now, even though he's been gone from the lab for nearly five years.

Montaño and two friends – former lab investigators Steve Doran and Glenn Walp – are pushing to reopen an investigation into theft and fraud at the lab that dates from more than a decade ago.

They maintain there's evidence that the purchasing and property management scandal that rocked the lab in 2002 went much higher in the LANL hierarchy than just the two employees – a team leader in facilities management and a purchaser on the team – who were the only people charged criminally.

Their evidence includes court statements from two former lab employees who say that, in separate instances, the team leader who was charged with theft and former LANL deputy director Richard Burick discussed their joint plans for a hunting operation on a ranch Burick owned.

And many of the items fraudulently obtained using the lab's account could have been used for hunting, ranching or in a lodge, Montaño, Walp and Doran say.

Their information is now in the hands of the federal Department of Justice and the Department of Energy's inspector

general office. But whether the DOE or the Justice Department will in fact take a new look at case remains to be seen. Previous efforts to get the FBI and the U.S. Attorney's Office interested apparently went nowhere.

The issues being raised "were never investigated," said Montaño.

"If there's a political reason for not holding people accountable, let's hear it," he added.

He details the case in a recently published book, "Los Alamos: A Whistleblower's Diary."

In May, Montaño, Walp and Doran sent a lengthy letter calling for a new probe to an investigative subcommittee of the U.S. House Energy and Commerce Committee, and to New Mexico's two senators and U.S. Rep. Ben Ray Luján.

The New Mexico congressional offices sent it to the Justice Department and Sen. Tom Udall's staff also provided it to the DOE's inspector general, office staffers said. "I've really stayed focused on getting our delegation to do something," said Montaño.

He's also met with the staff of the House subcommittee. "I haven't heard anything back," he said.

This kind of advocacy isn't Montaño's first tussle over lab operations.

Montaño, an auditor, filed suit making his own claims of retaliation over changes in his job duties that he maintained resulted from a report detailing extensive fraudulent billings at the lab. That suit was resolved with an undisclosed settlement under which Montaño left the lab on Dec. 31, 2010. Among other battles, Montaño led an effort in the 1990s challenging how a lab reduction in force affected Hispanic employees.

Scandal breaks

Back in 2002, former police officers Walp and Doran were fired from jobs at LANL's Office of Security Inquiries as they were investigating bogus purchases and shortly after Walp's scathing review of LANL's security failures was leaked to the press. Scores of other internal LANL documents were leaked to the **Journal**, and the purchasing scandal blew up.

Eventually, at least 18 senior LANL managers were dismissed, demoted or transferred; former LANL director John Browne resigned; and the DOE decided to bid out the lab's management contract for the first time ever after six decades of operation by the University of California (a private consortium that includes the Bechtel corporation and the university got the contract, and runs the lab now).

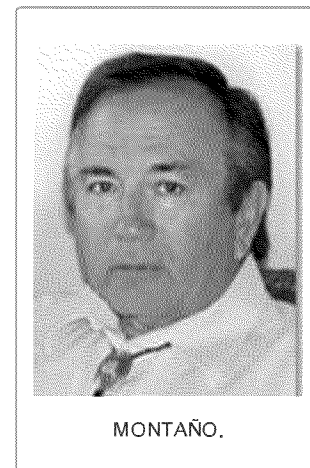
LANL defended the firings for months, including when the House Energy and Commerce subcommittee held a hearing on the mess. Both Walp and Doran filed suit and eventually received substantial settlements (Walp's was \$930,000), and the university admitted they were wrongfully terminated.

The two people arrested were facilities team leader Peter Bussolini and purchaser Scott Alexander. Bussolini got a six-month prison sentence and \$30,000 in fines, and Alexander was sentenced to a year behind bars. They acknowledged their actions cost the lab as much as \$200,000, although lab investigators estimated the purchases amounted to much more.

The items said to have been fraudulently purchased included TV sets, power tools, night-vision binoculars, an electric gate opener, tires and shock absorbers, high-end barbecue grills, CB radios, picnic tables, and hunting and outdoor gear like camping equipment and military knives.

What's new?

Montaño, Walp and Doran focus on Richard Burick, whose LANL jobs had included lab deputy director before he



MONTAÑO.

retired 2002. He died a year later from what the Los Alamos police said was a self-inflicted gunshot in the parking lot of the Pajarito ski area.

The three whistleblowers contend there were connections between Bussolini and Burick that weren't known when the purchasing scandal was investigated. If a deputy director like Burick had a role, they say, that means the purchasing scandal extended to the upper echelons of lab management.

A woman who took a call to Bussolini's phone number this week said there was no connection between Bussolini and Burick other than that Burick was "somebody at work."

"This has been rehashed and rehashed," she said. "There was no connection between them." Before she quickly hung up, she added, "We're not interested in talking to anyone and I don't want to hear anything about it, either."

Burick's death lends an air of mystery to the Montaño/Walp/Doran scenario – they maintain the investigation of the death was botched. Doran did his own probe that says the handgun used was found in an unusual position, with the gun cylinder open and a discharged bullet cartridge halfway out, that can't be duplicated.

The Los Alamos police have denied any problems with the case or any doubt it was a suicide, including in a Santa Fe Reporter article in 2012. (Burick's widow didn't return a phone message this week, but she told the Los Alamos Monitor in 2011, "He had cancer and he was on medication, and I am absolutely certain that it was nothing other than a suicide.")

As Montaño's group notes, the Office of the state Medical Investigator report that ruled Burick's death a suicide includes this statement: "It is reported that he may have suffered from recurrent prostate cancer and may have been the subject of an investigation related to his job." The lab has said previously, though, that there was no probe of Burick.

Among the evidence Montaño cites to link Bussolini and Burick are statements that two former lab employees gave in 2010 as part of Montaño's whistleblower lawsuit against UCal. In a sworn deposition, one said Burick once told him that, when he retired, Burick planned to turn a "camp" he owned into a hunting lodge and that Bussolini would help run it.

Another said in an affidavit given "under penalty of perjury" that, in the early 2000s, when discussing retirement plans, "Mr. Bussolini revealed his intent to participate in the management of a ranch and hunting operation with Deputy Director Richard Burick."

Montaño, Walp and Doran say in their May letter to Congress that the items illegally obtained on LANL's account "consisted mainly of hunting and ranching equipment." Burick did own a ranch in southern New Mexico, and a LANL employee newsletter report from 2001 has Burick saying he planned to retire there (but he only mentions raising cattle, not a lodge).

The May letter to Congress concludes that Montaño, Walp and Doran believe "the disturbing insights" they've come up with – which include many more twists and turns and details – "were purposely withheld from" the House subcommittee in 2003 "and should be made part of the record in this matter."

EPA Grant Helps Restore Louisiana Coast

Written by A media source // Friday, 07 August 2015 02:10 //



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The U.S. Environmental Protection Agency recently awarded \$362,213 to the Coastal Protection and Restoration Authority of Louisiana to help design a project implemented under the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) program.

The project will create and nourish 634 acres of marshland in the Shell Beach area off of Lake Borgne, southeast of New Orleans.

The marsh will help stabilize the landform separating Lake Borgne from the Mississippi River outlet to the Gulf of Mexico.

Using fill material from the lake, the project will create 346 acres of new marsh and nourish 288 acres of existing marsh. Marshes and wetlands significantly benefit communities and the environment. Wetlands help prevent flooding and filter pollution from stormwater runoff. They also provide food, protection, and habitat for many of the nation's fish and wildlife species, including endangered and threatened species.

Restoring wetlands and marshes is important for Louisiana, which continues to lose large amounts of coastal land area due to erosion.

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Everything New Orleans

Even less hurricane activity predicted for remainder of 2015, NOAA says

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NOAA has a 90 percent confidence of a less than normal season and a 70 percent confidence in its predictions for the number of named storms, hurricanes and major hurricanes. (NOAA)

Mark Schleifstein, NOLA.com | The Times-Picayune By **Mark Schleifstein, NOLA.com | The Times-Picayune**

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on August 06, 2015 at 9:54 AM, updated August 06, 2015 at 11:35 AM

NOAA forecasters said Thursday (Aug. 6) that the chance of a below-normal **hurricane season for 2015** has jumped to 90 percent, the result of a well-entrenched El Nino pattern of warm surface water conditions in the eastern Pacific Ocean and high wind shear and sinking air over much of the Atlantic where tropical systems form.

The agency now predicts only 6 to 10 named storms are likely to form this season, of which 1 to 4 will be hurricanes and zero to 1 will be major hurricanes Category 3 or greater, said Gerry Bell, lead seasonal hurricane forecaster for the NOAA Climate Prediction Center.

The figures include the three named storms that have already formed this season.

The new forecast is a more positive outlook than the already-mild NOAA prediction in May of 6 to 11 named storms this season, with 3 to 6 hurricanes and zero to 2 major hurricanes.

During a news conference to announce the updated forecast, Bell warned coastal residents not to let their guard down, just because of the less than average forecast.

"Tropical storms and hurricanes can and do strike the United States, even in below-normal seasons and during El Niño events," Bell said.

Two of the three tropical storms in the Atlantic this year have hit the United States: Ana made landfall in South Carolina in May and Bill hit the Texas coast in June.

The 90 percent confidence level in the updated forecast is the highest given by NOAA since it began issuing seasonal hurricane outlooks in 1998 -- meaning scientists are nearly certain about the accuracy of the forecast.

The NOAA predictions are in line with those made Tuesday by Colorado State University climatologists Philip Klotzbach and William Gray, who predicted 8 named storms, including 2 hurricanes and 1 major hurricane for the entire season.

The most recent tropical system to affect metro New Orleans was Hurricane Isaac in 2012.

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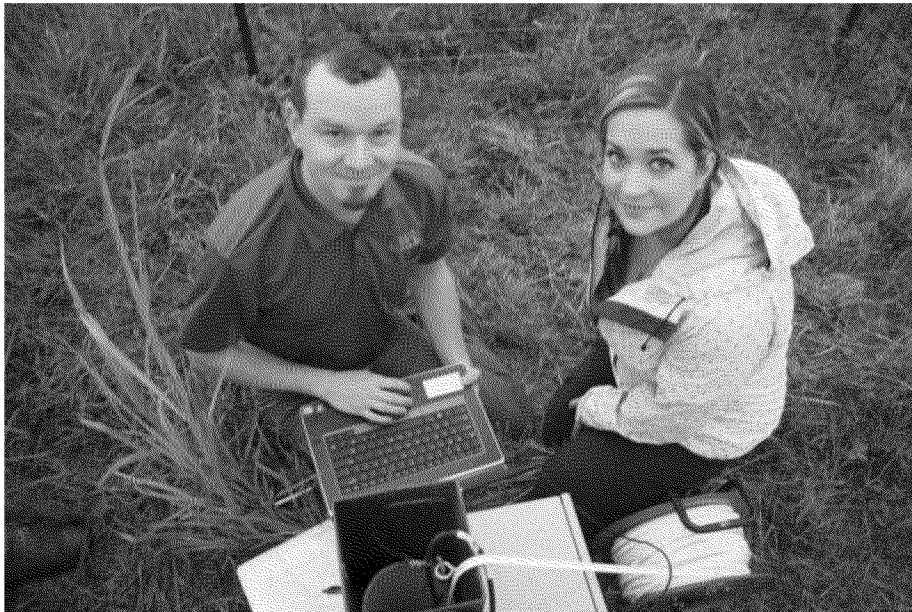
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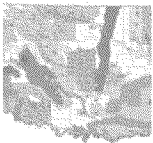
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OWRB water resources geologists Derrick Wagner and Jessica Correll analyze readings from their well at the Spencer Mesonet station.

Almost half of the water **used by Oklahomans comes from aquifers**, and four years of drought **increased that reliance**. This year's record-setting rainfall filled up the state's lakes, but recharging aquifers doesn't happen so quickly.



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The Oklahoma Water Resources Board uses underground sensors to **monitor groundwater levels** at several sites across the state.

But the sensors' accuracy needs to be checked manually, which means piling into an SUV with scientists and heading to the country.

On a recent trip to the Spencer Mesonet Station, water resources geologist Jessica

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Correll attached a metal probe to a long tape measure and fed it down into the Garber-Wellington Aquifer.

The probe descended about 50 feet before striking water.

AQUIFERS DOWN

Despite the record rainfall since March, the readings show water levels here are steadily dropping. Correll isn't surprised. Water from big rain events can quickly run off before soaking in far enough to reach aquifers.

"This particular water might not ever get down there," Correll says. "If you think about the depth, 50 feet, and everything that's there, and all of the root systems and everything. You need a nice, slow, soaking rain to get it saturated all through there."



LOGAN LAYDEN / STATEIMPACT OKLAHOMA

OWRB water resources geologist Jessica Correll feeds water tape into a well on the Garber-Wellington Aquifer that underlies central Oklahoma.

DON'T BLAME THE WEATHER

Correll isn't alarmed. The fluctuations in water level range from a inches to a few feet.

Oklahoma's aquifers have been around for thousands of years, though countless drought and flood cycles. All the recent rain didn't save them, but the drought wasn't exactly killing them either — at least not directly.

"The thing is if nobody was using them, they might be more protected from drought, but since people are there and wanting more wells and needing more water, they're using more when it is drought," Correll says.

Overuse by people causes wells to start running dry during drought, like in heavily irrigated areas of western Oklahoma, or when large groups of people quickly move to the same spot.

Oklahoma Water Resources Board Executive Director J.D. Strong says the problem of groundwater depletion goes beyond a single aquifer, a four-year drought, or an extra rainy spring. It's generational.

"I think if we're concerned about depletion and lowering water tables, we're concerned about all of the [aquifers]," Strong says. "Because I think just about every aquifer in the state, for the most part, we're measuring declines in."

Skeptical Woodward County, Oklahoma

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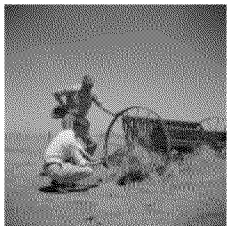
Oklahoma law allows for the slow depletion of aquifers so towns and landowners and have water, farmers can irrigate their fields, and industry can produce. The big question the OWRB faces now is how to manage that depletion, like in the Ogallala Aquifer, which the western Oklahoma agriculture industry has always relied on.

"Most of those producers that rely on that aquifer for their livelihood, and have for generations, realize that if they want their future generations to be able to stay there, live and prosper in the panhandle, they're going to have to manage that resource and take care of it and make sure it's there for them 50 to 100 years from now," Strong says.

The OWRB is currently doing studies on the state's major groundwater basins, determining how much can be pumped from them each year without depleting them too quickly. Each study can take years. Like rainwater making its way to an aquifer, it's a slow process.

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